

Amendments to Senate Bill No. 288  
3rd Reading Copy

Requested by Senator Chas Vincent

For the House Federal Relations, Energy, and Telecommunications  
Committee

Prepared by Sonja Nowakowski  
March 20, 2013 (1:16pm)

1. Title, page 1, line 6 through line 7.  
**Strike:** "STATE" on line 6 through "USE" on line 7  
**Insert:** "CONDEMNOR"
2. Title, page 1, line 10.  
**Strike:** "70-30-102, 70-30-104,"
3. Page 1, line 17.  
**Strike:** "state or its agents"  
**Insert:** "condemnor"
4. Page 2, line 6.  
**Strike:** "state or its agents"  
**Insert:** "condemnor"
5. Page 2, line 10.  
**Strike:** "state or its agents'"  
**Insert:** "condemnor's"
6. Page 2, line 11.  
**Strike:** "state or its agents'"  
**Insert:** "condemnor's"
7. Page 2, line 14.  
**Strike:** "state or its agents"  
**Insert:** "condemnor"
8. Page 2, line 17.  
**Strike:** "state or its agents"  
**Insert:** "condemnor"
9. Page 2, line 19.  
**Strike:** "state or its agents'"  
**Insert:** "condemnor's"
10. Page 2, line 21.  
**Strike:** "state or its agents'"  
**Insert:** "condemnor's"

11. Page 2, line 21 through line 22.

**Strike:** the second "state" on line 21 through "agents" on line 22

**Insert:** "condemnor"

12. Page 2, line 23.

**Strike:** "state or its agents provide"

**Insert:** "condemnor provides"

13. Page 2, line 26.

**Strike:** "state or its agents believe"

**Insert:** "condemnor believes"

14. Page 2, line 27.

**Strike:** "state or its agents"

**Insert:** "condemnor"

15. Page 2, line 29.

**Strike:** "state or its agents'"

**Insert:** "condemnor's"

16. Page 2, line 30.

**Strike:** "state or its agents'"

**Insert:** "condemnor's"

17. Page 3, line 1.

**Strike:** "state or its agents"

**Insert:** "condemnor"

18. Page 3, line 3.

**Strike:** "state or its agents"

**Insert:** "condemnor"

19. Page 3, line 6.

**Strike:** "state or its agents"

**Insert:** "condemnor"

20. Page 3, line 7.

**Strike:** "state or its agents"

**Insert:** "condemnor"

21. Page 3, line 10.

**Strike:** "state or its agents"

**Insert:** "condemnor"

22. Page 3, line 14.

**Strike:** "state or its agents"

**Insert:** "condemnor"

23. Page 3, line 16.

**Strike:** "state or its agents"

**Insert:** "condemnor"

24. Page 3, line 18.

**Strike:** "state or its agents"

**Insert:** "condemnor"

25. Page 3, line 21.

**Strike:** "state or its agents"

**Insert:** "condemnor"

26. Page 3.

**Following:** line 30

**Insert:** "(3) "Condemnor" means an entity able to take private property in accordance with this chapter for a public use enumerated in 70-30-102. An entity may otherwise be delegated the power of eminent domain in statute for a public use enumerated in 70-30-102."

**Renumber:** subsequent subsections

27. Page 4, line 1 through 2.

**Strike:** "the state" on line 1 through "use" on line 2

**Insert:** "a condemnor"

28. Page 4, line 3 through line 5.

**Strike:** subsection (4) in its entirety

**Renumber:** subsequent subsection

29. Page 4, line 8 through page 7, line 28.

**Strike:** section 4 through section 5 in their entirety

**Renumber:** subsequent sections

30. Page 8, line 2.

**Strike:** "state or its agents'"

31. Page 8, line 3.

**Strike:** "state or its agent"

**Insert:** "condemnor"

32. Page 8, line 23.

**Strike:** "state or its agents"

**Following:** "use"

**Insert:** "condemnor"

33. Page 8, line 26.

**Strike:** "state or its agents"

**Following:** "use"

**Insert:** "condemnor"

34. Page 8, line 29.

**Strike:** "state or its agents"

**Insert:** "condemnor"

35. Page 9, line 1.

**Strike:** "state or its agents"

**Insert:** "condemnor"

36. Page 9, line 4.

**Strike:** "state or its agents"

**Insert:** "condemnor"

37. Page 9, line 11.

**Strike:** "state or its agents"

**Insert:** "condemnor"

38. Page 9, line 19.

**Strike:** "state or its agents"

**Insert:** "condemnor"

39. Page 13.

**Following:** line 9

**Insert:** "(3) "Condemnor" means an entity able to take private property in accordance with this chapter for a public use enumerated in 70-30-102. An entity may otherwise be delegated the power of eminent domain in statute for a public use enumerated in 70-30-102."

**Renumber:** subsequent subsections

40. Page 13, line 10 through line 11.

**Strike:** "the state" on line 10 through "use" on line 11

**Insert:** "a condemnor"

41. Page 13, line 13.

**Following:** "authority"

**Strike:** "1"

**Insert:** "and for which"

**Following:** "of"

**Strike:** "which"

**Insert:** "the transmission facility, which is not a federal power marketing agency or a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18, including a regional generation and transmission cooperative as defined in 35-18-318 [as amended by section 2 of Senate Bill No. 90],"

42. Page 13, line 18 through line 20.

**Strike:** subsection (5) in its entirety

**Renumber:** subsequent subsection

43. Page 13, line 24 through line 25.

**Strike:** "THE AMENDMENTS" on line 24 through "AND" on line 24

44. Page 15, line 30.

**Strike:** "use this chapter to"

**Following:** "property"

**Insert:** "under the provisions of this chapter"

45. Page 16, line 13.

**Strike:** "state or its agents"

**Insert:** "condemnor"

46. Page 16.

**Following:** line 20

**Insert:** "COORDINATION SECTION. Section 12. Coordination instruction. If House Bill No. 417 and [this act] are passed and approved and if both contain a section that amends 70-30-111, then the sections amending 70-30-111 are void and 70-30-111 must be amended as follows:

"70-30-111. Facts necessary to be found before condemnation. (1) Before property ~~can~~ may be taken, the condemnor shall show by a preponderance of the evidence that the public interest requires the taking based on the following findings:

~~(1)~~ (a) the use to which the property is to be applied is a public use pursuant to 70-30-102;

~~(2)~~ (b) the taking is necessary to the public use;

~~(3)~~ (c) if already being used for a public use, that the public use for which the property is proposed to be used is a more necessary public use;

~~(4)~~ (d) an effort to obtain the property interest sought to be taken was made by submission of a final written offer prior to initiating condemnation proceedings and in accordance with [section 2 of Senate Bill No. 288] and the final written offer was:

(i) rejected; or

(ii) rejected in accordance with [section 2 of Senate Bill No. 288] because a property owner did not respond or the condemnor believed an impasse existed.

(2) Subsection (1)(d) does not prohibit the condemnor from making further offers in an effort to obtain the property interest sought to be taken, but offers made after the final written offer is submitted pursuant to subsection (1)(d) may not be used to determine whether the condemnee prevails pursuant to 70-30-305. The condemnor shall disclose to a property owner that further offers made in accordance with this subsection are not considered the final written offer."

{ Internal References to 70-30-111:

70-30-110      70-30-203      70-30-206 }"

**Renumber:** subsequent sections

- END -